present during the entire collection procedure to avoid embarrassment of the donor and distraction of the collector.

(2) If practical, a water coloring agent that meets the requirements of § 26.87(e)(1) must be placed in the toilet bowl to be used by the donor and in any other accessible source of standing water, including, but not limited to, the toilet tank. The collector shall instruct the donor not to flush the toilet.

(3) A collector of the same gender as the donor shall accompany the donor into the area that will be used for specimen collection, but remain outside of the stall, if it is a multi-stalled rest room, or outside of the door to the room, if it is a single rest room, in which the donor will provide the specimen. If a collector of the same gender is not available, the collector shall select a same-gender person to accompany the donor. This person shall be instructed on the collection procedures specified in this subpart and his or her identity must be documented on the custody-and-control form.

(4) After the collector has possession of the specimen, the collector shall inspect the toilet bowl and area to ensure that there is no evidence of a subversion attempt and shall then flush the toilet. The collector shall instruct the donor to participate with the collector in completing the chain-of-custody procedures.

(5) If it is impractical to maintain continuous physical security of a collection site from the time a urine specimen is presented until the sealed container is transferred for shipment, the specimen must remain under the direct control of an individual who is authorized by the licensee or other entity until the specimen is prepared for transfer, storage, or shipping, as required by § 26.117. The authorized individual shall be instructed on his or her responsibilities for maintaining custody and control of the specimen and his or her custody of the specimen must be documented on the custody-and-control form.

§ 26.89 Preparing to collect specimens for testing.

(a) When an individual has been notified of a requirement for testing and does not appear at the collection site within the time period specified by FFD program procedures, the collector shall inform FFD program management that the individual has not reported for testing. FFD program management shall ensure that the necessary steps are taken to determine whether the individual's undue tardiness or failure to appear for testing constitutes a violation of the licensee's or other entity's FFD policy. If FFD program management determines that the undue tardiness or failure to report for testing represents an attempt to subvert the testing process, the licensee or other entity shall impose on the individual the sanctions in § 26.75(b). If FFD program management determines that the undue tardiness or failure to report does not represent a subversion attempt, the licensee or other entity may not impose sanctions but shall ensure that the individual is tested at the earliest reasonable and practical opportunity after locating the individual.

(b) Donors shall provide acceptable identification before testing.

(1) Acceptable identification includes photo-identification issued by a licensee or other entity who is subject to this part, or by the Federal, State, or local government. Licensees and other entities may not accept faxes or photocopies of identification.

(2) If the donor cannot produce acceptable identification before any testing that is required under this part other than pre-access testing, the collector shall proceed with the test and immediately inform FFD program management that the donor did not present acceptable identification. When so informed, FFD program management shall contact the individual's supervisor to verify in-person the individual's identity, or, if the supervisor is not available, take other steps to establish the individual's identity and determine whether the lack of identification was an attempt to subvert the testing process. The donor may not leave the collection site except under supervision until his or her identity has been established.

(3) If the donor is scheduled for pre-access testing and cannot produce acceptable identification, the collector

may not proceed with the collection, and shall inform FFD program management that the individual did not present acceptable identification. When so informed, FFD program management will take the necessary steps to determine whether the lack of identification was an attempt to subvert the testing process.

(4) The collector shall explain the testing procedure to the donor, show the donor the form(s) to be used, and ask the donor to sign a consent-to-testing form. The donor may not be required to list prescription medications or over-the-counter preparations that he or she has recently used.

(c) The collector shall inform the donor that, if the donor refuses to cooperate in the specimen collection process (including, but not limited to, behaving in a confrontational manner that disrupts the testing process; admitting to the collector that he or she adulterated, diluted, or adulterated the specimen; is found to have a device, such as a prosthetic appliance, the purpose of which is to interfere with providing an actual urine specimen; or leaving the collection site before all of the collection procedures are completed), it will be considered a refusal to test, and sanctions for subverting the testing process will be imposed under §26.75(b). If the donor refuses to cooperate in the collection procedures, the collector shall inform FFD program management to obtain guidance on the actions to be taken.

(d) In order to promote the security of specimens, avoid distraction of the collector, and ensure against any confusion in the identification of specimens, a collector shall conduct only one collection procedure at any given time. For this purpose, a urine collection procedure is complete when the urine specimen container has been sealed and initialed, the chain-of-custody form has been executed, and the donor has departed the collection site.

§26.91 Acceptable devices for conducting initial and confirmatory tests for alcohol and methods of use.

(a) *Acceptable alcohol screening devices*. Alcohol screening devices (ASDs), including devices that test specimens of oral fluids or breath, must be approved by the National Highway Traffic Safety Administration (NHTSA) and listed in the most current version of NHTSA's Conforming Products List (CPL) for such devices. An ASD that is listed in the NHTSA CPL may be used only for initial tests for alcohol, and may not be used for confirmatory tests.

(b) *Acceptable evidential breath testing devices*. Evidential breath testing devices listed in the NHTSA CPL for evidential devices that meet the requirements of paragraph (c) of this section must be used to conduct confirmatory alcohol tests, and may be used to conduct initial alcohol tests. Note that, among the devices listed in the CPL for EBTs, only those devices listed without an asterisk (*) may be used for confirmatory alcohol testing under this subpart.

(c) *EBT capabilities*. An EBT that is listed in the NHTSA CPL for evidential devices that has the following capabilities may be used for conducting initial alcohol tests and must be used for confirmatory alcohol tests under this subpart:

(1) Provides a printed result of each breath test;

(2) Assigns a unique number to each completed test, which the collector and donor can read before each test and which is printed on each copy of the test result;

(3) Prints, on each copy of the test result, the manufacturer's name for the device, its serial number, and the time of the test;

(4) Distinguishes alcohol from acetone at the 0.02 alcohol concentration level;

(5) Tests an air blank; and

(6) Permits performance of an external calibration check.

(d) *Quality assurance and quality control of ASDs*. (1) Licensees and other entities shall implement the most recent version of the quality assurance plan submitted to NHTSA for any ASD that is used for initial alcohol testing.

(2) Licensees and other entities may not use an ASD that fails the specified quality control checks or that has passed its expiration date.

(3) For ASDs that test breath specimens and meet EBT requirements for